

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARKEL AMERICAN INSURANCE COMPANY,) NO. C-07-5749 SC

Plaintiff,

**ORDER DENYING HUBBELL'S
MOTION TO DISMISS**

V.

PACIFIC ASIAN ENTERPRISES, INC., a)
California Corporation; LEVITON)
MANUFACTURING CO., INC., a Delaware)
Corporation; HUBBELL INCORPORATED,)
a Connecticut Corporation; and DOES)
1-100, inclusive,)

Defendants.

I. INTRODUCTION

Plaintiff Markel American Insurance Co. ("Markel") brought this suit seeking to recover for damages resulting from a fire aboard the vessel Boundless Grace in November 2005. Markel alleges that Defendant Pacific Asian Enterprises ("PAE") manufactured the vessel, incorporating parts manufactured by Defendant Hubbell Inc. ("Hubbell"), and asserts claims against PAE, Hubbell, and Defendant Leviton Manufacturing Co. ("Leviton") for strict liability, breach of warranty, and negligence. See Compl., Docket No. 1.

On motions by Hubbell and PAE, the Court previously dismissed all claims in the Complaint without prejudice. See Docket No. 33 ("MTD Order"). Following the Court's order, Markel filed its

1 First Amended Complaint ("FAC"). Docket No. 35. Now before the
2 Court is Hubbell's Motion to Dismiss the FAC. Docket No. 43.
3 Markel filed an Opposition and Hubbell filed a Reply. Docket Nos.
4 44, 45. For the reasons set forth below, the Court hereby DENIES
5 Hubbell's Motion.

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7 **II. BACKGROUND**

8 Markel is an insurance company. At the times relevant to
9 this dispute, Markel issued to its insured, Ron Montague
10 ("Montague"), an insurance policy called the Jackline Policy,
11 number JL0000045-2, for the policy period from September 19, 2005,
12 to September 19, 2006, to cover the vessel named Boundless Grace,
13 hull number PAI470111003 (the "Vessel"). FAC ¶ 9. Montague
14 purchased the Vessel from PAE in January 2004 in Florida. Id. ¶
15 11. Markel alleges that the Vessel was designed, manufactured,
16 distributed, and sold by PAE, and incorporated work, materials,
17 and products of Leviton and Hubbell. Id. ¶ 10. Specifically,
18 Markel alleges that Leviton and Hubbell designed, manufactured,
19 assembled, distributed, and sold electrical components, including
20 GFCI duplex receptacles, supplied to PAE for use and installation
21 on the Vessel. Id. ¶ 19.

22 In November 2005, the Vessel was severely damaged by a fire
23 in its engine room. Id. ¶ 12. This included heat, fire, smoke,
24 and water damage to the machinery space, generator, engine, and
25 mechanical systems, cabin, wheelhouse, electrical system, fuel
26 system, plumbing system, insulation, fittings, finishes,
27 furnishings and appliances, as well as personal property. Id.

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1 The personal property allegedly damaged in the fire included deck
2 chairs, sun pads, a lounge chair, a grill, bungee cords, and
3 mattresses. Id. In addition to damage to the Vessel, dock fees,
4 emergency repair and clean-up costs were incurred to protect the
5 Vessel. Id.

6 Based on its investigation of the fire, Markel believes the
7 fire originated in the engine room, at a GFCI duplex receptacle
8 near the stern end of the starboard side fuel tank. Id. ¶ 13.
9 Markel alleges that the fire was caused by "an electrical
10 malfunction/failure of the GFCI duplex receptacle." Id.

11 Markel alleges that at the time Montague purchased the Vessel
12 from PAE, the Vessel and certain components thereof, including a
13 GFCI duplex receptacle, were defective, deficient, and/or
14 otherwise not fit for the purpose intended. Id. ¶ 11. Markel
15 alleges that the damage the Vessel suffered in the fire was a
16 "direct, foreseeable and proximate result of the defects,
17 deficiencies and poor workmanship of the work, materials and
18 products" of Defendants. Id. ¶ 12. As a result of the fire,
19 Markel was obligated to pay substantial sums to or on behalf of
20 Montague for the protection, repair, and loss of use of the
21 Vessel. Id. ¶ 15. Markel has complied in full with the
22 conditions of the insurance policy, and has therefore become
23 subrogated to Montague's rights to recover damages resulting from
24 the damage to the Vessel. Id. ¶ 16. Based on these allegations,
25 Markel asserts claims for strict liability, breach of warranty,
26 and negligence.

1 **III. LEGAL STANDARD**

2 A Federal Rule of Civil Procedure 12(b)(6) motion to dismiss
3 tests the sufficiency of the complaint. Dismissal pursuant to
4 Rule 12(b)(6) is appropriate if the plaintiff is unable to
5 articulate "enough facts to state a claim to relief that is
6 plausible on its face." Bell Atl. Corp. v. Twombly, 127 S. Ct.
7 1955, 1974 (2007). When evaluating a motion to dismiss, the court
8 accepts the facts as stated by the nonmoving party and draws all
9 reasonable inferences in its favor. See Everest & Jennings, Inc.
10 v. Am. Motorists Ins. Co., 23 F.3d 226, 228 (9th Cir. 1994).
11 Furthermore, the court must assume that all general allegations
12 "embrace whatever specific facts might be necessary to support
13 them." Peloza v. Capistrano Unified Sch. Dist., 37 F.3d 517, 521
14 (9th Cir. 1994).

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16 **IV. DISCUSSION**

17 Hubbell contends that the changes Markel made in the FAC fail
18 to meaningfully address the deficiencies the Court identified in
19 the Complaint. Hubbell does not argue that Markel has failed to
20 allege the elements of its claims. Rather, Hubbell's position is
21 that Markel has failed to allege anything beyond the basic
22 elements of its claim, making it impossible for Hubbell to prepare
23 a defense. The Court disagrees.

24 In responding to the Court's Order, Markel added a number of
25 significant facts to the FAC. The new allegations include the
26 specific component Markel believes to have caused the fire, the
27 basis for this belief, and the location and nature of the fire and

1 the resulting damage on the Vessel. These allegations are
2 specific enough that Hubbell may prepare a defense on the merits.

3 The bar for notice pleading under the Federal Rules of Civil
4 Procedure is low. See Fed. R. Civ. P. 8(a)(1). The FAC need not
5 provide Hubbell with every detail it needs for its defense. The
6 discovery process will allow Markel to develop its case and
7 Hubbell to develop its defenses.

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9 **v. CONCLUSION**

10 For the reasons set forth above, the Court concludes that
11 Markel's First Amended Complaint satisfies the pleading standards
12 of the Federal Rules of Civil Procedure. Hubbell's Motion is
13 therefore DENIED.

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IT IS SO ORDERED.

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Dated: December 2, 2008

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UNITED STATES DISTRICT JUDGE

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